

## **REMARKS**

Favorable reconsideration is respectfully requested.

The claims are 15-21.

The above amendment is responsive to points set forth in the Official Action.

With regard to the amendment to claim 15, support is evident on page 9, lines 13-15 of the specification.

This amendment is particularly responsive to the rejection under 35 U.S.C. 112 on the ground of lack of written description.

In this regard, the rejection states that the specification does not mention a food comprising 0.5% by mass or more, and thus this limitation is deemed new matter. In reply, a food comprising 0.5% by mass or more of a browning product is supported by the specification at page 9, lines 13 to 15. Examples of the present specification disclose various foods comprising more than 10% by mass of a browning product. Please see Examples 14, 15, 17 and 22. Foods prepared in Examples 14, 15, 17 and 22 comprise 23%, 45%, 40% and 40% by mass of a browning product, respectively. Therefore, it is apparent that the limitation of "0.5% by mass or more" is not new matter.

Claims 15-17 stand rejected under 35 U.S.C. 102(e) as being anticipated by Kim et al. (U.S. 6,627,238) for reasons of record.

This rejection is again respectfully traversed.

The rejection alleges that there are literally hundreds of different types of foods that are not disclosed that contain a browning product which would contain a higher percentage of browning product.

It is almost impossible to show that no food in the world contains 0.5% by mass or more of a browning product. However, Applicants cited Hirano et al. (Biosci. Biotech. Biochem., 60 (5), 877-879, 1996) which suggests that foods containing such high amounts of browning product as presently claimed are not generally known. Hirano et al. discloses a tentative measurement of brown pigments in various processed foods where browning reactions have occurred during processing or long-term storage. Therefore, it is considered reasonable and proper to think that foods selected by Hirano et al. were known to comprise a large amount of browning product yet the

product yet the amounts shown in Hirano et al., Table I on page 878 are far less than presently recited. See the response of November 2, 2006, page 5, first paragraph.

It is inappropriate to deny the novelty of claim 15 without presenting any reference which discloses a food comprising 0.5% by mass or more of a browning product. Applicants have met their burden of proof and now the burden of rebuttal rests with the Examiner.

In addition, claim 15 is amended as described above. It is considered that any food to which 0.5% by mass or more of a browning product is incorporated has not been known before the present invention.

Claims 15-21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. (U.S. 6,627,238) in view of Kodama (U.S. 6,828,298) for reasons set forth in the previous Office Action.

This rejection is again respectfully traversed.

It appears that the Examiner does not accept that a browning product and glycoprotein are very different materials.

In support of the significant differences between these materials, attached hereto is evidence in Rule 132 Declaration form which demonstrates that a browning product and glycoprotein have different biological activities and, therefore, they are very different materials.

Experiment I demonstrates that the glycoproteins (PHA and potato lectin) have agglutinating activity but the browning product (FP-10) does not have this activity.

It is common general knowledge in the art that a browning product and a glycoprotein are very different materials, each having different activities.

Experiment II demonstrates that a browning product of casein and lactose (FP-10) has a *Helicobacter pylori* adhesion inhibitory activity, but neither casein nor lactose has the inhibitory activity. Also, it is demonstrated that casein, which includes a glycoprotein and does not have a *Helicobacter pylori* adhesion inhibitory activity, obtained inhibitory activity through the browning reaction. Thus, the *Helicobacter pylori* adhesion inhibitory activity of the browning product is not from glycoprotein. This result also demonstrates that a browning product and a glycoprotein are very different materials each having different activities.


For the foregoing reasons, the rejections on prior art are untenable and should be withdrawn.

No further issues remaining, allowance of this application is respectfully requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact undersigned at the telephone number below.

Respectfully submitted,

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